

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Shorter, Alabama)

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MB Docket No. 04-201
RM - 10972

Federal Communications Commission
Office of Secretary

To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

COUNTERPROPOSAL

1. Scott Communications, Inc. ("Scott"), licensee of Station WJAM-FM, Orrville, Alabama, and Alexander Broadcasting Co., Inc. ("Alexander"), licensee of Station WALX(FM), Selma, Alabama, by their counsel and pursuant to Section 1.415 of the Commission's Rules, hereby submit this Counterproposal in the above-captioned proceeding.¹ Scott requests that the Commission amend the FM Table of Allotments to delete Channel 300A at Orrville, Alabama, allot Channel 300C3 to Shorter, Alabama as that community's first local service, and modify the license of WJAM-FM to reflect operation on Channel 300C3 at Shorter. Alexander requests that the Commission amend the FM Table of Allotments to delete Channel 265C2 at Selma, Alabama, allot Channel 265C2 to Orrville, Alabama, and modify the license of WALX to reflect operation on Channel 265C2 at Orrville. The following table summarizes the changes requested in this Counterproposal:

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¹ See Notice of Proposed Rule Making, DA 04-1415 (rel., May 28, 2004).

City	Channel	
	Existing	Proposed
Orrville, Alabama	300A	265C2
Selma, Alabama	261C2, 265C2, 287C2	261C2, 287C2
Shorter, Alabama	--	300C3

I. Preliminary Matters

2. Scott's proposed use of Channel 300C3 at Shorter is mutually exclusive with Matthew K. Wesolowski's ("Wesolowski") proposal set forth in the *Notice of Proposed Rule Making* to allot Channel 300A at Shorter. However, Scott's proposal is preferred over Wesolowski's allotment under the Commission's allotment priorities,² because, while both Scott and Wesolowski propose to serve the community of Shorter, Scott's proposal serves a substantially larger number of persons. *See In re Applications of Green Valley Broadcasters, Inc., et. al.*, FCC 04-119, ¶ 4 (rel., July 16, 2004) (the Commission applied the FM allotments priorities to the AM service).

3. In *Green Valley Broadcasters*, an AM station was allotted to Las Vegas, Nevada over a mutually exclusive proposal for an AM station at Sahuarita, Arizona. The proposals were compared under Priority 4 and, because neither petitioner had proposed a first or second aural service or a first local service, the Commission did not compare the populations of Las Vegas and Sahuarita to determine the proposal that best served the public interest. Rather, the Commission determined that if a proposal served a "substantially larger number of persons" it better served the public interest, and therefore assigned the AM station to Las Vegas. In upholding the assignment to Las Vegas, the Commission affirmed the Media Bureau's determination that, when comparing two proposals under Priority 4, the populations of the respective communities are not dispositive. Instead, the Commission will prefer the proposal

² See *Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d 88 (1982) ("*FM Assignment Policies*").

that serves a “substantially larger number of persons.” *See Green Valley Broadcasters*, FCC 04-119 at ¶ 4. Here, Scott’s and Alexander’s proposals will provide a net gain in service to 211,115 persons within the respective 60 dBu contours, while Wesolowski’s proposal will only serve 86,240 persons within its proposed 60 dBu contour. *See Engineering Statement*. Therefore, under *Green Valley Broadcasters*, Scott’s proposal is preferred over Wesolowski’s proposal.

II. Station WJAM-FM, Orrville to Shorter, Alabama

A. Technical Analysis

4. As demonstrated in the Technical Exhibit, Channel 300C3 can be allotted to Shorter at coordinates 32-21-49 North Latitude, 85-59-48 West Longitude consistent with Section 73.207 of the Commission’s Rules with respect to all existing and proposed allotments and facilities except for a short-spacing to Channel 299C at Birmingham, Alabama (“WRAX”). *See Figure 1*. However, Citadel Broadcasting Company, licensee WRAX, has agreed to downgrade WRAX from Class C to Class C0, *see Exhibit A*, and Channel 300C3 at Shorter will be fully spaced to Channel 299C0 at Birmingham. *See Figure 1*. A 70 dBu signal can be provided to Shorter from the proposed reference point. *See Figure 2*. The relocation of WJAM-FM to Shorter will result in a net gain in population of 254,489 persons able to receive a 60 dBu signal from the station. *See Figure 3*.³ The loss area will continue to remain well-served. *See Figure 4*.

³ There will be no gain or loss area for WRAX downgrading from Class C to Class C0 because the Commission uses actual facilities for Class C stations. Here, the actual Class C coverage is the same as the Class C0 coverage. Therefore, there is no gain or loss from the downgrade of WRAX.

B. Change in Community of License

5. Scott desires to change the community of license of Station WJAM-FM from Orrville to Shorter under the guidelines set forth in *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 3870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) ("Community of License"). There, the Commission stated that a station may change its community of license without subjecting the licensee to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities. These criteria are met here. First, the proposed use of Channel 300C3 at Shorter is mutually exclusive with the current use of Channel 300A at Orrville. *See* Figure 1. Second, Orrville will not be deprived of its only local service because, as discussed in Section III herein, Alexander proposes to change the community of license of WALX from Selma to Orrville. Third, the provision of a first local service at Shorter (2000 U.S. Census pop. 355) under Priority 3 will result in a preferential arrangement of allotments over the retention of a seventh local service at Selma (2000 U.S. Census pop. 20,512) under Priority 4. *See FM Assignment Policies, supra.*

6. Shorter is not located in an Urbanized Area, and the proposed 70 dBu contour of WJAM-FM will not encompass more than 50 percent of an Urbanized Area. Therefore, this relocation does not implicate the Commission's policy against migration of stations from rural to urban areas, and a *Tuck* showing is not required. *See Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). Further, in this proceeding, the Commission has already received community indicia, and determined that

Shorter, Alabama is a community for allotment purposes. *See Notice of Proposed Rule Making*, DA 04-1415, p. 5, n. 7 (rel., May 28, 2004).

III. Station WALX(FM), Selma to Orrville, Alabama

A. Technical Analysis

8. In order to maintain local service at Orrville, Alexander desires to change the community of license of Station WALX from Selma to Orrville. As demonstrated in the Technical Exhibit, Channel 265C2 can be allotted to Orrville at the coordinates 32-20-42 North Latitude, 86-55-02 West Longitude consistent with Section 73.207 of the Commission's Rules with respect to all existing and proposed domestic allotments and facilities. *See Figure 5*. A 70 dBu signal can be provided to Orrville from the proposed reference point. *See Figure 6*. The relocation of WLAX from Selma to Orrville will result in a predicted net loss of 43,374 persons within the 60 dBu contour. *See Figure 7*. The entire loss area will continue to receive at least 5 other aural services, and will thus remain well served. *See Figure 8*.

B. Community of License

9. Alexander desires to make this change under the guidelines set forth in *Community of License, supra*. First, the proposed use of Channel 265C2 at Orrville is mutually exclusive with the current use of Channel 265C2 at Selma. *See Figure 5*. Second, Selma will not be deprived of its only local service because Stations WAPR(FM) (Channel 202), WAQU(FM) (Channel 216), WBFZ(FM) (Channel 287), WHBB(AM) (1490 kHz), WDXX(FM) (Channel 261), and WMRK(AM) (1340 kHz) are currently licensed to operate at Selma. Third, as discussed in Paragraph 6 herein, the provision of a first local service at Shorter (2000 U.S. Census pop. 355) under Priority 3 will result in a preferential arrangement of allotments over the retention of a seventh local service at Selma (2000 U.S. Census pop. 20,512) under Priority 4. *See FM Assignment Policies, supra*.

IV. Conclusion

Grant of this Counterproposal is in the public interest because the allotment of Channel 300C3 at Shorter and the allotment of Channel 265C2 at Orrville will result in a net population gain of 211,115 persons. Further, this proposal takes priority over Wesolowski's proposal under Priority 4 because this net gain resulting from the allotments of Channel 300C3 to Shorter and Channel 265C2 to Orrville will serve 124,875 more persons than the allotment of Channel 300A at Shorter. If this Counterproposal is granted, (i) Scott will file an application to modify the license of WJAM-FM to specify operation on Channel 300C3 at Shorter, Alabama and construct the facilities if its application is granted, and (ii) Alexander will file an application to modify the license of WALX(FM) to specify operation on Channel 265C2 at Orrville, Alabama and construct the facilities if its application is granted. The Commission should promptly grant the Counterproposal.

Respectfully submitted,

SCOTT COMMUNICATIONS, INC.

ALEXANDER BROADCASTING CO., INC.

By:



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Their Counsel

July 19, 2004

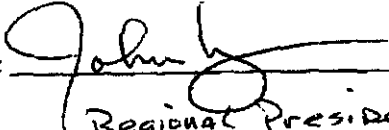
EXHIBIT A

**Station WRAX(FM)
Birmingham, Alabama**

Citadel Broadcasting Company ("Licensee"), licensee of Station WRAX(FM), Birmingham, Alabama, hereby agrees to have WRAX(FM)'s channel downgraded from Class C to Class C0 at its existing transmitter site. Licensee will file an application to implement the change consistent with the Commission's spacing rules should the Commission approve the amendment to the FM Table of Allotments. Licensee understands that this statement may be used in a filing submitted by Scott Communications, Inc. to the Commission, and hereby authorizes its use for that purpose.

I verify that this statement is true, complete and correct to the best of my knowledge and belief and is made in good faith.

CITADEL BROADCASTING COMPANY

By: 
Its: Regional President

ENGINEERING STATEMENT
IN SUPPORT OF A
COUNTERPROPOSAL

MB Docket No. 04-201
RM-10972

Scott Communications, Inc.
WJAM-FM, Channel 300C3

July, 2004

Prepared by:



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**Engineering Statement
In Support of a
Counterproposal
WJAM(FM)
Scott Communications, Inc.
MB Docket No. 04-201
RM-10972**

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**Engineering Statement
In Support of a
Counterproposal
WJAM (FM)/WALX (FM)
Alexander Broadcasting Company, Inc.
Scott Communications, Inc.
MB Docket No. 04-201
RM-10972**

INTRODUCTION

The instant engineering statement is offered in support of a counterproposal in the MB Docket No. 04-201, RM -10972. The petitioner proposes to allocate channel 300A to Shorter, AL as that community's first local service. In the instant counterproposal, Scott Communications, Inc., ("Scott"), licensee of WJAM Channel 300A, Orrville, AL, proposes to delete channel 300A at Orrville and allocate channel 300C3 at Shorter for use by WJAM. Channel 300C3 cannot be allocated at Shorter without the participation of WJAM since that allotment would create a short space of 33.12 kilometers to the licensed site of WJAM. In addition, Scott has received the cooperation of the licensee of WRAX channel 299C, Birmingham, AL to accept reclassification to a C0. When combined with the deletion of channel 300A at Orrville, clear spacing is created in the spectrum for the allotment of channel 300A at Shorter, but only for use by WJAM.

The attached engineering exhibits give documentation to the conclusion reached in the preceding paragraph.

DISCUSSION

Scott proposes to delete channel 300A at Orrville and allocate channel 300C3 at Shorter for use by WJAM. The allotment reference proposed is; North Latitude: 32-21-49, West Longitude: 85-59-48. This creates a prohibited short space to two stations, 1) WJAM and WRAX. Presently WJAM operates on channel 300A licensed to Orrville at the reference

coordinates; North Latitude: 32-21-38, West Longitude: 87-09-12. When channel 300C3 is allotted to Shorter, it will create a short space of 33.12 kilometers to the WJAM licensed site. Therefore, WJAM is MX with the proposed allotment of channel 300C3 at Shorter and the short spacing is of no concern.

WRAX is licensed to Birmingham on channel 299C at the licensed coordinates; North Latitude: 33-43-52, West Longitude: 86-37-57. The allotment of channel 300C3 at Shorter creates a short space to WRAX of 13.14 kilometers. Scott has obtained consent from the WRAX licensee to accept reclassification to a class C0. This reclassification eliminates the short spacing to the allotment of channel 300C3 at Shorter. See Exhibit E, Figure 1.

Presently Orrville is served by only WJAM. To keep a remaining service at Orrville, Alexander Broadcasting Company, Inc. ("Alexander") proposes to delete channel 265C2 from Selma, AL and allot its channel to Orrville. This allotment will require a slight modification of the reference coordinates of WALX.

METHODS

Each of the stations included in the instant counterproposal is discussed first with a channel allocation study depicting the spacing to all known FM facilities. Maps depicting the gain/loss area, remaining services and the community/70 dbu contours are shown for both WJAM and WALX. WRAX does not have a channel spacing study, remaining services study and/or a gain loss study. WRAX is currently a class C and class C stations are shown in gain/loss studies with their actual technical facilities. The change to a class C0 would be also shown with the same technical facilities since the station is less than 450 meters HAAT. Therefore, all gain/loss parameters are shown for WJAM and WALX only.

EXHIBITS EXPLAINED

Exhibit E, Figure 1 is a channel allocation study using the channel 300C3 proposed allotment reference. It depicts three short spacings; the NPRM 300A at Shorter, WJAM and WRAX. It has been previously noted that the allotment of channel 300C3 at Shorter is MX with the NPRM and no substitute channels are known. Exhibit E, Figure 2 is a map depicting the 70 dBu of WJAM on channel 300C3 at Shorter. It depicts more than adequate coverage of the entire community of Shorter. Exhibit E, Figure 3 is a map of the gain loss area created when channel 300A is deleted at Orrville and allocated to Shorter. The gain is discussed in the gain/loss section of the instant counterproposal engineering section. Exhibit E, Figure 4 is a remaining services study for the deletion of channel 300A at Orrville. This shows that all points within the loss area will continue to receive at least five (5) aural services.

Exhibit E, Figure 5 is an allocation study using the proposed allotments for channel 265C2 at Orrville for use by WALX. The study demonstrates that no additional spectrum subchanges will be required to allocate channel 265C2 to Orrville. Exhibit E, Figure 6 is a 70 dBu contour map for the proposed channel 265C2 at Orrville, which demonstrates 100% coverage of the community of license with a city-grade contour. Exhibit E, Figure 7 is a gain/loss study map for the proposed modification of WALX. Exhibit E, Figure 8 is a remaining services study for the proposed allocation of channel 265C2 at Orrville. This exhibit shows that all points within the loss area will continue to be served by at least five (5) aural services.

Exhibit E, Figure 9 is a gain/loss comparison map between the PRM channel 300A at Shorter and the proposed WJAM allocation at Shorter on channel 300C3. This study

shows that the proposed WJAM facility will cover 213,952 persons more than the PRM channel 300A (300,192 vs. 86,240), thus making the instant counterproposal superior to the PRM.

CUMULATIVE GAIN/LOSS

<u>Station</u>	<u>Population Gain</u>	<u>Population Loss</u>	<u>Gain Area (km²)</u>	<u>Loss Area(km²)</u>
WJAM	300,192	45,703	4,803	2,516
WALX	4,657	48,031	640	640
Totals:	304,849	93,734	5,143	3,156

Net Population Increase (Decrease): 211,115

Net Area Increase (Decrease): 1,987 km²

CONCLUSION

The instant engineering statement and the supporting exhibits have documented the fact that the allotment of channel 300C3 at Shorter is superior to the proposed allocation of channel 300A at Shorter. It also demonstrates that channel 300A can be deleted at Orrville and allocated to Shorter for use by WJAM with no disruption in the spectrum. The proposed deletions leave all loss areas more than adequately served.

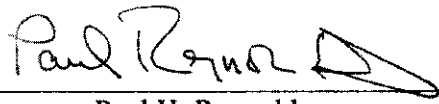
Statement of the Consultants

The instant engineering portion of a counterproposal was prepared for Scott Communications, Inc. ("Scott") and supports a counterproposal to MB Docket 04-201. It was developed by Reynolds Technical Associates ("RTA") and may not be used for purposes other than submission to the Commission by Scott.

It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of RTA.

The information in this application is compiled from the most recent Commission and outside data. RTA is not responsible for errors resulting from incorrect data or unpublished rule and procedure changes.

For Reynolds Technical Associates:


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July 19th, 2004

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**Engineering Statement
In Support of a
Counterproposal
WJAM(FM)
Scott Communications, Inc.
MB Docket No. 04-201**

Deleting CH 300A at Orrville, AL and Allotting Ch 300C3 at Shorter, AL (WJAM)
(Using proposed allotment coordinates as reference)

REFERENCE				CLASS = C3		DISPLAY DATES	
32 21 49 N				Current		DATA 07-16-04	
85 59 48 W				Spacings		SEARCH 07-19-04	
----- Channel 300 - 107.9 MHz -----							
Call	Channel	Location		Dist	Azi	FCC	Margin
-----				-----			
Community of Shorter				AL	8.25	65.3	
Reference Coordinates:							
North Latitude: 32-23-40							
West Longitude: 85-55-01							
RADD	ADD	300A	Shorter	AL	11.08	150.7	142.0 -130.92
Of Concern:							
Proposed allotment of instant PRM							
Scott is MX with this proposal							
WJAMFM	CP -Z	300A	Orrville	AL	108.88	270.1	142.0 -33.12
AL300	RSV	300A	Orrville	AL	113.29	268.2	142.0 -28.71
Of No Concern:							
Licensed facility of WJAM							
WRAX	LIC	299C	Birmingham	AL	162.86	338.9	176.0 -13.14
Of Concern:							
Agreement of licensee to accept Class C0							
to accommodate WJAM class C3 at Shorter							
attached.							
WRAX.P	LIC	299C0	Birmingham	AL	162.86	338.9	163.0 -0.13
Of Note:							
WRAX as class C0 at present site							
WFXX	LIC	299C2	Georgiana	AL	116.95	210.2	117.0 -0.05
WRAX.C	CP -N	299C1	Birmingham	AL	145.58	329.0	144.0 1.58
WCGQ	LIC	297C0	Columbus	GA	89.17	82.4	87.0 2.17
RADD	ADD	297C0	Columbus	GA	89.17	82.4	87.0 2.17
WHTA	LIC-N	300C2	Hampton	GA	182.82	46.4	177.0 5.82
WHTA.C	CP -N	300C2	Hampton	GA	182.87	46.4	177.0 5.87
ALLO	USE	300C1	Panama City	FL	221.08	165.4	211.0 10.08
WPFMFM	LIC	300C1	Panama City	FL	221.11	165.4	211.0 10.11
WMCZ	LIC	246A	Millbrook	AL	27.60	263.4	12.0 15.60
ALLO	USE	246A	Millbrook	AL	36.69	290.7	12.0 24.69

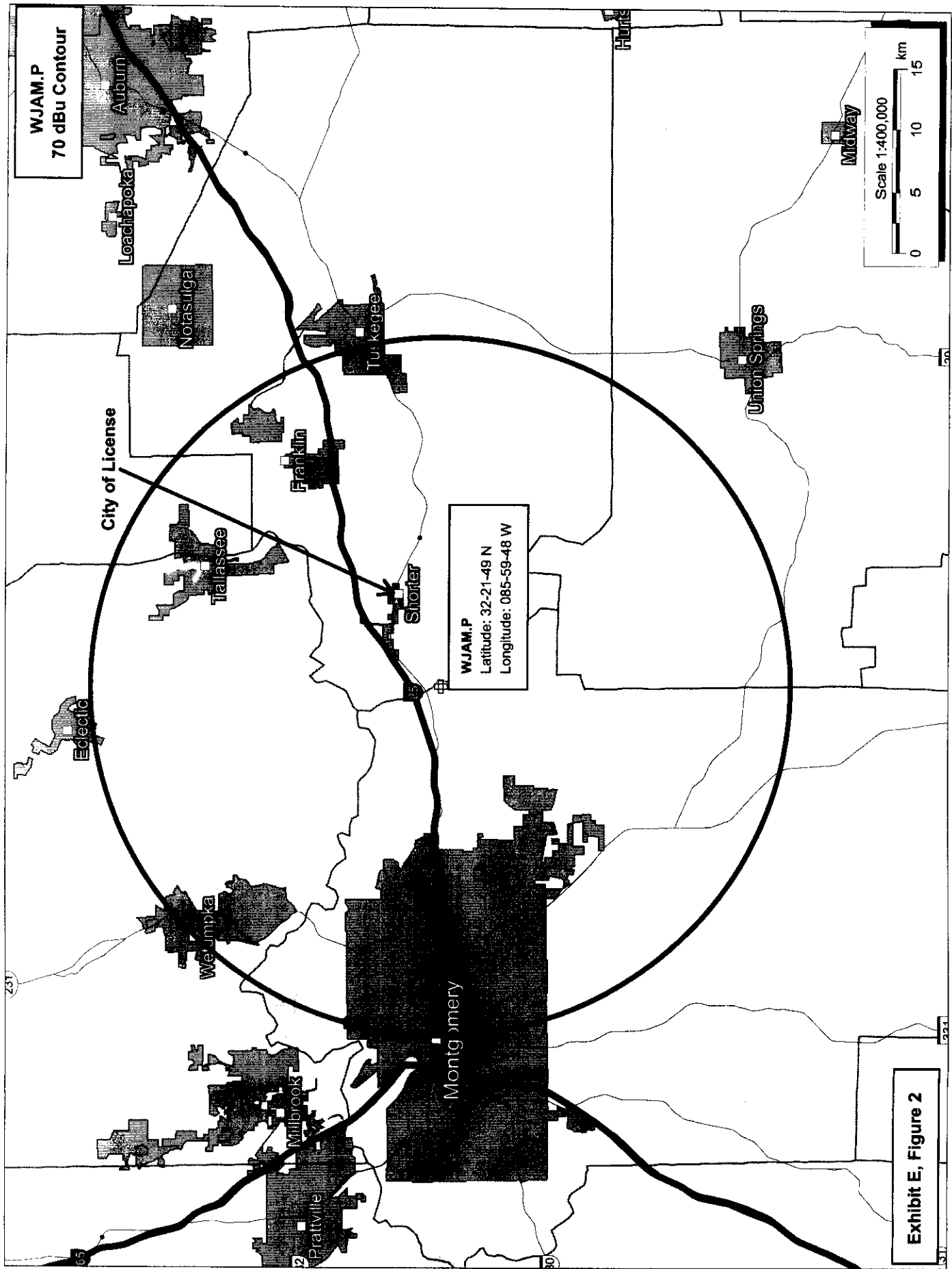


Exhibit E, Figure 2

**Engineering Statement
In Support of a
Counterproposal
WJAM(FM)
Scott Communications, Inc.
MB Docket No. 04-201**

Deleting CH 265C2 at Selma, AL and Allotting Ch 265C2 at Orrville, AL (WALX)
(Using proposed allotment coordinates as reference)

REFERENCE				CLASS = C2		DISPLAY DATES		
32 20 42 N						DATA 07-16-04		
86 55 02 W				Current Spacings		SEARCH 07-19-04		
----- Channel 265 - 100.9 MHz -----								
Call	Channel	Location		Dist	Azi	FCC	Margin	

Community of Orrville				AL	31.19	262.05		
Reference Coordinates:								
North Latitude: 32-18-21								
West Longitude: 87-14-43								
WALX	LIC	265C2	Selma	AL	4.41	66.0	190.0	-185.59
Of No Concern:								
Licensed facility of WALX before								
proposed site and community change								
WFNU	LIC	266A	Repton	AL	105.54	199.2	106.0	-0.46
ALLO	USE	266A	Repton	AL	108.26	196.4	106.0	2.26
WYDEFM	LIC	266C	Cullman	AL	192.67	0.4	188.0	4.67
WANZ	LIC	264C3	Northport	AL	121.69	322.2	117.0	4.69
WYDEFM	CP	266C	Cullman	AL	192.70	0.4	188.0	4.70
ALLO	USE	265A	West Point	GA	175.94	69.2	166.0	9.94
WANZ.C	CP -N	263C1	Northport	AL	88.98	339.4	79.0	9.98
WANZ.A	APP	263C1	Northport	AL	88.98	339.4	79.0	9.98
WCJMFm	LIC-N	265A	West Point	GA	176.30	70.8	166.0	10.30
AL263	RSV	263C1	Helena	AL	91.45	339.9	79.0	12.45
WJLQ	LIC	264C	Pensacola	FL	202.78	200.1	188.0	14.78
ALLO	USE	263C1	Northport	AL	98.47	323.3	79.0	19.47
R---		264A	Ashland	AL	137.30	47.5	106.0	31.30
WZTZ	LIC	266A	Elba	AL	137.62	138.7	106.0	31.62
RDEL	DEL	264A	Ashland	AL	140.99	46.0	106.0	34.99
RADD	ADD	264A	Ashland	AL	140.99	46.0	106.0	34.99

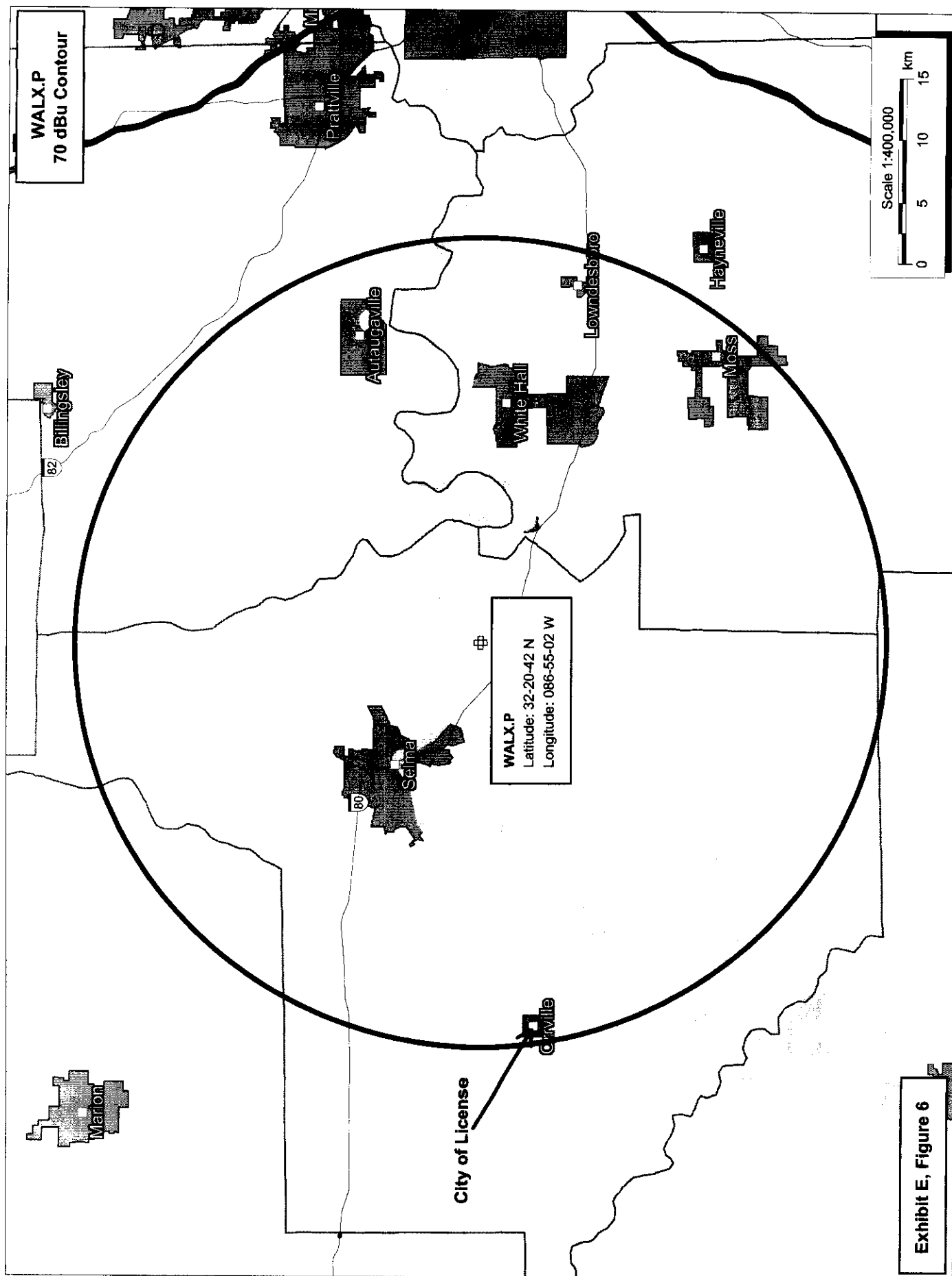
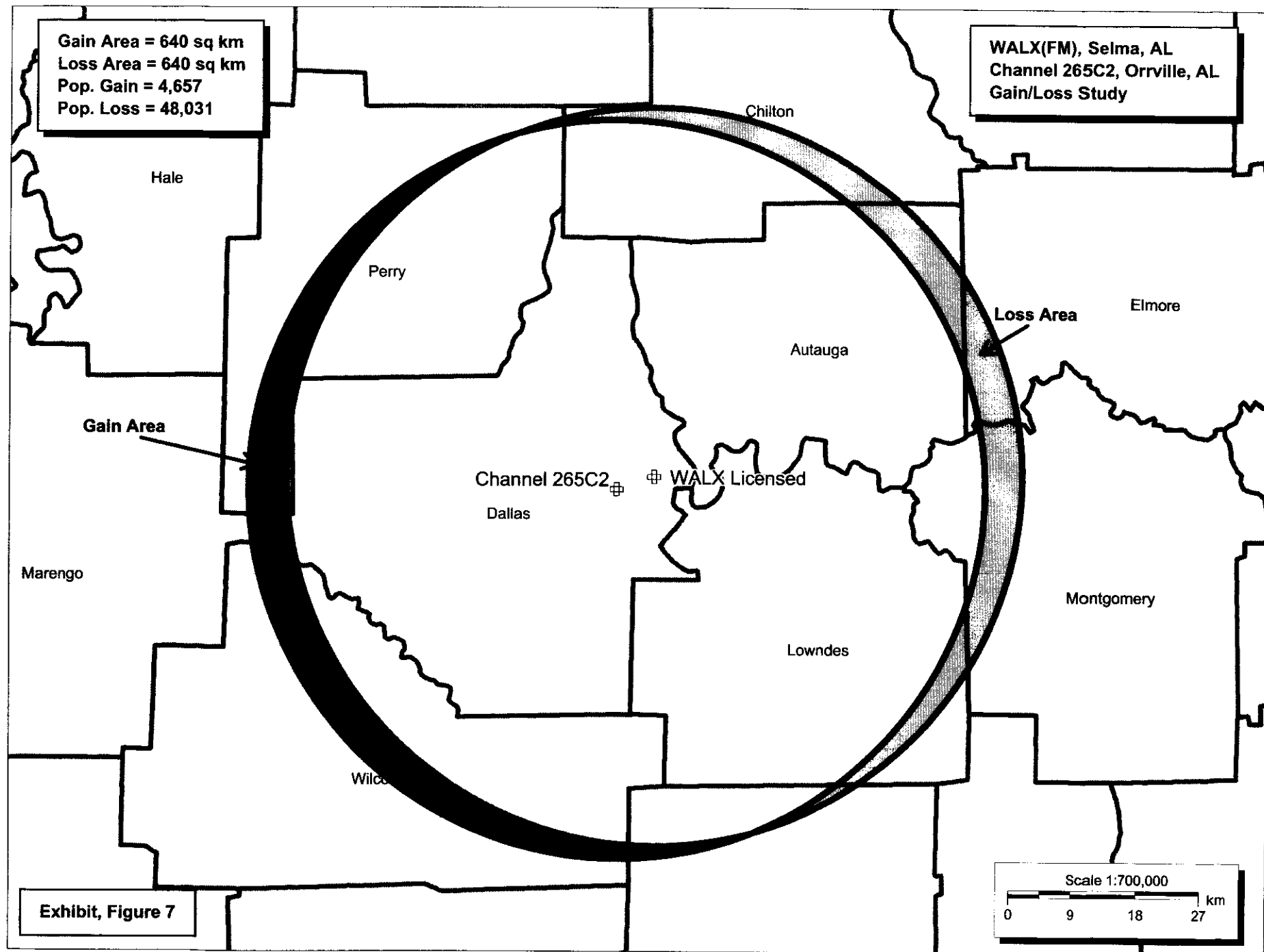
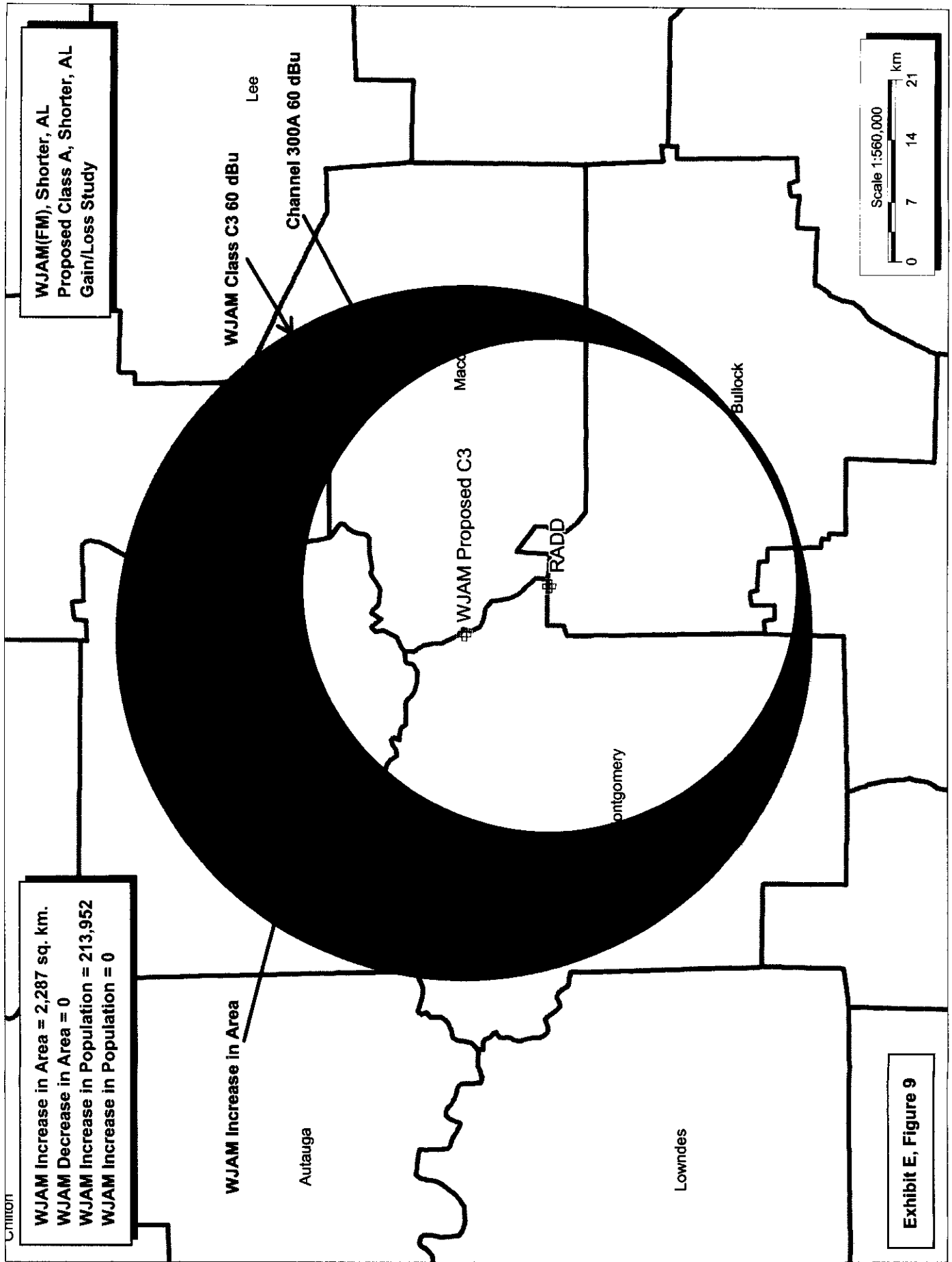


Exhibit E, Figure 6





CERTIFICATE OF SERVICE

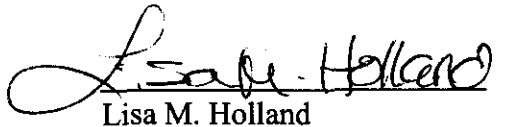
I, Lisa M. Holland, a secretary in the law firm of Vinson & Elkins, do hereby certify that on this 19th day of July, 2004, I caused copies of the foregoing "**Counterproposal**" to be mailed, first class postage prepaid, or hand delivered, addressed to the following persons:

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Lisa M. Holland

* Hand-delivered